

Judge Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

EZEKIEL HAMPTON, and,
KATRINA GRAUMAN

Defendant.

NO. CR08-5671BHS

GOVERNMENT'S SUPPLEMENT
JOINT MOTION TO CONTINUE
TRIAL DATE

I. INTRODUCTION

The United States of America, by and through Jeffrey C. Sullivan, United States Attorney for the Western District of Washington, and Bruce F. Miyake, Assistant United States Attorney for said District, files this supplement to defendant, KATRINA GRAUMAN's, request for a continuance of the trial date.

II. BACKGROUND

The defendant, EZEKIEL HAMPTON and others including KATRINA GRAUMAN were involved in prostitution and the sale of crack and cocaine. The government's investigation has shown that HAMPTON would recruit or cause others to recruit females, including juvenile females, for the purpose of engaging in prostitution. As part of this scheme, HAMPTON and his underlings would advertise the females on internet sites such as Craigs List for sexual services. Additionally, HAMPTON would use his prostitutes to assist him in the sale of illegal drugs. According to one witness, HAMPTON would have the girls assist him in the packaging of the drugs and delivery of

1 the drugs to customers. All of the money made from this operation, prostitution and
2 drugs, would go to HAMPTON.

3 On June 24, 2008, the Tacoma Police Department served two narcotics search
4 warrants. One of the search warrants was at the Days Inn, located at 6902 Tacoma Mall
5 Blvd. #147, Tacoma, Washington and the other warrant at HAMPTON's residence,
6 located at 1928 Martin Luther King Way, Tacoma, Washington. The officers located
7 KATRINA GRAUMAN and Sonya McKay, two of HAMPTON's prostitutes, at the Days
8 Inn motel room. In the motel room, a quantity of crack cocaine was recovered.

9 HAMPTON was found at the 1920 Martin Luther King Way residence with
10 another female, Erica DeLeon. During a search of that residence, a purse containing
11 approximately 117 grams of cocaine and a loaded firearm were recovered. According to
12 a government witness, HAMPTON would keep his drugs and guns in a female's purse in
13 order to insulate himself from criminal liability.

14 As a result of the above, HAMPTON and GRAUMAN were initially charged in
15 Pierce County Superior Court with a series of state drug charges.

16 On September 25, 2008, the government filed a complaint charging HAMPTON
17 and GRAUMAN with conspiracy to distribute cocaine and cocaine base, possession with
18 intent to distribute cocaine, possession with intent to distribute cocaine base, and
19 possession of a firearm in furtherance of a drug trafficking offense. *See Docket No. 1.*

20 On October 2, 2008, the Grand Jury for the Western District of Washington indicted
21 HAMPTON and GRAUMAN for the same charges set forth in the complaint. *See Docket*
22 *No. 13.* If convicted of these offenses, the defendants would face a mandatory minimum
23 of 15 years and a maximum sentence of life imprisonment.

24 A trial date of December 9, 2008, was set at the time of arraignment.

25 On November 3, 2008, GRAUMAN filed a motion to continue the trial date. *See*
26 *Docket No. 25.* There have been no previous continuances in this matter.

27 On November 6, 2008, the government provided partial discovery to the
28 defendants. The government has additional discovery it intends to provide to the defense

1 including the results of the search of defendants' computers, cellular telephones, and
2 digital cameras.

3 The government has continued to investigate the matter and intends to supersede
4 the indictment to add a charge of conspiracy to engage in sexual trafficking of a child
5 and at least one substantive count of sexual trafficking of a minor, in violation of Title 18,
6 United States Code, Section 1591(a)(1) and (b)(2). This offense will carry a mandatory
7 minimum of ten years.

8 The undersigned has spoken with Ronald Ness, attorney for co-defendant
9 KATRINA GRAUMAN, who is requesting a continuance in order for him to conduct an
10 adequate investigation and be properly prepared for trial. As of this date, the co-
11 defendant, EZEKIEL HAMPTON, has not sought a severance of counts or from
12 GRAUMAN. Thus, he is properly joined for trial.

13 **III. LEGAL STANDARD AND ARGUMENT**

14 Under the Speedy Trial Act, 18 U.S.C. § 3161 et al, a defendant's trial must
15 commence within 70 days of the later of the filing of the indictment or the defendant's
16 first appearance in the court in which the charges are pending. *See, 18 U.S.C. §*
17 *3161(c)(1)*. However, the Speedy Trial Act excludes certain periods of times from the
18 70-day calculation. *See, 18 U.S.C. § 3161(h)(1)-(8)*.

19 The Act specifically addresses situations involving multiple defendants. Under the
20 Act, any period of time from the "filing of the [pretrial] motion through the conclusion of
21 the hearing on or other prompt disposition of, such motion" is excluded from the
22 calculation of the 70-day rule. *18 U.S.C. § 3161(h)(1)(F)*. It is well settled that a pretrial
23 motion filed by one defendant affects all defendants. *United States v. Wirsing*, 867 F.2d
24 1227, 1230 (9th Cir. 1989); *United States v. Butz*, 982 F.2d 1378, 1381 (9th Cir. 1993).
25 Further, under Section 3161(h)(7) a Court shall exclude a reasonable period of delay
26 "when the defendant is joined for trial with a codefendant as to whom the time has not
27 run and no motion for severance has been granted."
28

1 The Act also allows a district court to grant reasonable continuances where the
 2 “ends of justice served by taking such action outweigh the best interest of the public and
 3 the defendant in a speedy trial.” *18 U.S.C. § 3161(h)(8)(A)*. In granting a continuance,
 4 the district court may consider whether the failure to grant a continuance would result in a
 5 miscarriage of justice, *18 U.S.C. § 3161(h)(8)(B)(i)*, whether due to the nature of the
 6 prosecution that it is “unreasonable to expect adequate preparation for pretrial
 7 proceedings or for the trial itself within the time limits” of the Act, *18 U.S.C. §*
 8 *3161(h)(8)(B)(ii)*, or whether, in a case where the case is not so unusual or complex, that
 9 failure to grant a continuance would nonetheless unreasonably deny the defendant
 10 continuity of counsel or the reasonable time necessary for effective preparation taking
 11 into account the exercise of due diligence. *18 U.S.C. § 3161(h)(8)(B)(iv)*. The need for
 12 counsel to effectively prepare the matter for pretrial motions and trial is grounds for a
 13 continuance. *United States v. Henderson* 746 F.2d 619, 624 (9th Cir. 1984) (proper to
 14 continue a trial to allow counsel to prepare pretrial motions). *See also, United States v.*
 15 *Kramer*, 781 F.2d 1380, 1389-90 (9th Cir. 1986) (defense counsel’s request for
 16 continuance properly granted over defendant’s objection, where counsel needed time to
 17 be adequately prepared).

18 In this case, the speedy trial clock was tolled as to both defendants when, on
 19 November 3, 2008, GRAUMAN filed her pretrial motion for a continuance of the trial.
 20 As of the date of the filing of that motion approximately 32 days had elapsed leaving
 21 approximately 38 additional days of speedy trial available. Though, HAMPTON has not
 22 joined in GRAUMAN’s motion and has recently filed an objection to any continuance,
 23 *see Docket No. 26*, it nonetheless tolls the speedy trial clock as to him as well.

24 As noted above, this case is not a simple drug conspiracy but involves a
 25 complicated scheme wherein HAMPTON recruited and employed females to work as
 26 prostitutes and drug runners for him. Even if the government does not file a superseding
 27 indictment, evidence of the scheme HAMPTON employed to recruit and use females in
 28 the prostitution would be admissible since it is inextricably intertwined with the facts of

1 this case. The government will seek to introduce evidence which establishes that
 2 HAMPTON had control over the various prostitutes, controlled the money, and most of
 3 the decisions regarding their illegal activities.

4 The government is still in the process of providing discovery and making the
 5 physical items available for the defendants' attorneys to view. When the government
 6 adopted this case, we obtained the computers, digital cameras, and cellular telephones.
 7 Those items have been searched and will be made available to the defense. Further, the
 8 government recently received additional reports from the FBI which it will provide to the
 9 defense.

10 It is difficult to understand how either defense counsel can be adequately prepared
 11 under the above circumstances.

12 IV. CONCLUSION

13 Given the nature of the charges, the fact discovery has not yet been completed, and
 14 the pending superseding indictment, a continuance is appropriate so that all counsel can
 15 be adequately prepared for pretrial motions and trial.

16 DATED this 20th day of November, 2008.

17 Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via telefax.

s/JANET K. VOS

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